

**2003**

**STATE OF NEBRASKA**

**STATUTES RELATING TO  
ASBESTOS CONTROL ACT**

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



Department of Health and Human Services Regulation and Licensure  
Credentialing Division  
Nebraska State Office Building  
301 Centennial Mall South, Third Floor  
PO Box 94986  
Lincoln, NE 68509-4986

## **STATUTE INDEX**

### **ASBESTOS CONTROL ACT**

- 71-6301. Terms, defined.
- 71-6302. Asbestos project; business entity; license required; exceptions; training course.
- 71-6303. Administration of act; rules and regulations; fees; department; powers and duties.
- 71-6304. Business entity; license; qualifications.
- 71-6305. License; application; contents.
- 71-6306. License or certificate; term; renewal.
- 71-6307. Licensee or business entity; records required; contents.
- 71-6308. Repealed. Laws 1988, LB 1073, §20.
- 71-6309. Waiver of requirements; when authorized.
- 71-6309.01. Repealed. Laws 1995, LB 406, §96.
- 71-6310. Individual worker; certificate required; qualifications; term; renewal; applications; fee; limited certificate; instructors; qualifications.
- 71-6310.01. Asbestos occupations; training courses; approval.
- 71-6310.02. Asbestos occupations; certificate; renewal; continuing competency requirements.
- 71-6310.03. Project designer or project monitor; duties.
- 71-6311. Governmental body; contract with nonlicensee prohibited.
- 71-6312. Violations; penalties.
- 71-6313. Violations; action to enjoin.
- 71-6314. Violations; citation; disciplinary actions; procedures; civil penalty; lien; enforcement.
- 71-6315. Repealed. Laws 1995, LB 406, §96.
- 71-6316. Act; districts exempt.
- 71-6317. Act, how cited.

## STATUTES PERTAINING TO ASBESTOS CONTROL ACT

**71-6301. Terms, defined.** For purposes of the Asbestos Control Act, unless the context otherwise requires:

- (1) Asbestos means asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite;
- (2) Asbestos encapsulation project means activities which include the coating of asbestos-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing the continued release of asbestos fibers from the material into the air. Such project does not include the repainting of a previously painted nonfriable asbestos-containing surface which is not damaged primarily for improving the appearance of such surface;
- (3) Asbestos enclosure project means activities which physically isolate friable asbestos and which control and contain fibers released from asbestos-containing material by constructing a permanent airtight barrier between the asbestos-containing material and the occupied building space;
- (4) Asbestos occupation means an inspector, management planner, project designer, project monitor, supervisor, or worker;
- (5) Asbestos project means an asbestos enclosure project, an asbestos encapsulation project, an asbestos removal project, an asbestos-related demolition project, or an asbestos-related dismantling project but does not include (a) any activities which affect three square feet or less or three linear feet or less of asbestos-containing material on or in a structure or equipment or any appurtenances thereto or (b) any activities physically performed by a homeowner, a member of the homeowner's family, or an unpaid volunteer on or in the homeowner's residential property of four units or less;
- (6) Asbestos removal project means activities which include the physical removal of friable asbestos-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal. Such project also includes the physical removal of asbestos from a structure or equipment after such structure or equipment has been removed as part of an asbestos-related dismantling project;
- (7) Asbestos-related demolition project means activities which include the razing of all or a portion of a structure which contains friable asbestos-containing materials or other asbestos-containing materials which may become friable when such materials are cut, crushed, ground, abraided, or pulverized;
- (8) Asbestos-related dismantling project means activities which include the disassembly, handling, and moving of the components of any structure or equipment which has been coated with asbestos-containing material without first removing such material from the structure or from the equipment;
- (9) Business entity means a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern involved in an asbestos project except an entity solely involved as a management planner or project designer;
- (10) Certificate means an authorization issued by the department permitting an individual person to work in an asbestos occupation;
- (11) Demolition means the wrecking, razing, or removal of any structure or load-supporting structural item of any structure, including any related material handling operations, and includes the intentional burning of any structure;
- (12) Department means the Department of Health and Human Services Regulation and Licensure;
- (13) Director means the Director of Regulation and Licensure or his or her designee;
- (14) Enclosure means the construction of an airtight, impermeable, permanent barrier around asbestos-containing material to control the release of asbestos fibers into the air;
- (15) Friable asbestos means asbestos in a form which can be crumbled, pulverized, or reduced to powder by hand pressure;
- (16) Inspector means an individual who is certified by the department to identify and assess the condition of asbestos-containing material;
- (17) Instructor means an individual who is approved by the department to teach an asbestos-related training course;
- (18) License means an authorization issued by the department permitting a business entity to engage in an asbestos project;
- (19) Management planner means an individual who is certified by the department to assess the hazard of materials containing asbestos, to determine the appropriate response actions, and to write management plans;
- (20) Project designer means an individual who is certified by the department to formulate plans and write specifications for conducting asbestos projects;
- (21) Project monitor means an individual who is certified by the department to observe abatement activities performed by contractors, to represent the building owner to ensure work is completed according to specifications and in compliance with statutes and regulations, and to perform air monitoring to determine final clearance;
- (22) Project review means review of a licensed business entity's proposed asbestos project;
- (23) Renovation means the altering of a structure, one or more structural items, or one or more equipment items in any way, including any asbestos project performed on a structure, structural item, or equipment item;
- (24) Supervisor means an individual who is certified by the department to supervise and direct an asbestos project in accordance with the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to such act; and
- (25) Worker means an individual who is certified by the department to clean, handle, repair, remove, encapsulate, haul,

dispose of, or otherwise work with asbestos material in a nonsupervisory capacity.

Source: Laws 1986, LB 1051, §1; Laws 1988, LB 1073, §1; Laws 1990, LB 923, §1; Laws 1993, LB 121, §454; Laws 1995, LB 406, §73; Laws 1996, LB 1044, §761. Operative date January 1, 1997.

**71-6302. Asbestos project; business entity; license required; exceptions; training course.** Except as otherwise provided in this section or section 71-6309, a business entity shall not engage in an asbestos project unless the business entity holds a license for that purpose. A business entity which (1) only performs asbestos projects which are less than two hundred sixty linear feet or which are less than one hundred sixty square feet and linear feet in any combination or (2) uses its own employees for an asbestos project for the purpose of renovating, maintaining, or repairing its own facilities shall not be required to hold a license. Business entities not required to hold a license shall provide a training course to inform the employees of the health and safety aspects of the asbestos project, including the applicable state standards. The training course shall meet the standards for such course as prescribed in section 71-6310.01 and the rules and regulations adopted and promulgated pursuant to such section. The training course shall be available for review and approval upon inspection by the department.

Source: Laws 1986, LB 1051, § 2; Laws 1988, LB 1073, § 2; Laws 1990, LB 923, § 2; Laws 2002, LB 1021, § 98. Operative date January 1, 2003.

**71-6303. Administration of act; rules and regulations; fees; department; powers and duties.** (1) The department shall administer the Asbestos Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out the act. The department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in the state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

(c) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

(d) For approval of an initial training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(e) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(f) For an onsite inspection of an asbestos project other than an initial inspection, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual asbestos project is in progress; and

(g) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any such applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

All fees shall be based on the costs of administering the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection of each licensed business entity's procedures for performing asbestos projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

(8) The department shall establish and collect fees for issuance and renewal of certificates as provided in section 71-162 for persons certified under section 71-6310.

The department shall adopt and promulgate rules and regulations to establish continuing competency requirements for persons certified under the act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a certified person may select as an alternative to continuing education.

Source: Laws 1986, LB 1051, § 3; Laws 1988, LB 1073, § 3; Laws 1991, LB 703, § 52; Laws 1995, LB 406, § 74; Laws 1996, LB 1044, § 762; Laws 2002, LB 1021, § 99; Laws 2003, LB 242, § 144. Operative date July 1, 2004.

**71-6304. Business entity; license; qualifications.** To qualify for a license, a business entity shall:

- (1) Own or demonstrate immediate and continuing access to and maintain in operable condition modern and effective equipment, as prescribed by the department, which is designed for use in asbestos projects;
- (2) Ensure that each employee or agent of the business entity who will come into contact with asbestos or who will be present on an asbestos project is certified as required by the Asbestos Control Act;
- (3) Demonstrate to the satisfaction of the department that the business entity is capable of complying with all applicable requirements, procedures, and standards pertaining to the asbestos project;
- (4) Have access to at least one approved asbestos disposal site for deposit of all asbestos waste that the business entity will generate during the term of the license; and
- (5) Meet any other standards which the department may deem necessary to protect the health, safety, and welfare of all classes of asbestos occupations and the general public.

Source: Laws 1986, LB 1051, §4; Laws 1988, LB 1073, §4.

**71-6305. License; application; contents.** (1) To apply for a license, a business entity shall submit an application to the department in the form required by the department and shall pay the fee prescribed by the department.

- (2) The application shall include, but not be limited to:
  - (a) The name, address, and nature of the business entity;
  - (b) A statement that all persons who will engage in any asbestos project for the licensee will be certified as required by the Asbestos Control Act;
  - (c) A description of the protective clothing and respirators that the business entity will use;
  - (d) The name and address of each asbestos disposal site that the business entity will use;
  - (e) A description of the site decontamination procedures that the business entity will use;
  - (f) A description of the removal, enclosure, encapsulation, demolition, dismantling, and maintenance methods that the business entity will use;
  - (g) A description of the procedures that the business entity will use for handling waste containing asbestos;
  - (h) A description of the air monitoring procedures that the business entity will use;
  - (i) A description of the procedures that the business entity will use in cleaning up the asbestos project;
  - (j) The signature of the chief executive officer of the business entity or his or her designee; and
  - (k) Such other information as may be necessary for the efficient administration and enforcement of the act and for the protection of the health, safety, and welfare of the general public and all classes of asbestos occupations.

Source: Laws 1986, LB 1051, §5; Laws 1988, LB 1073, §5.

**71-6306. License or certificate; term; renewal.** (1) A license or certificate shall expire on the first anniversary of its effective date unless it is renewed for one year as provided in this section.

(2) At least thirty days before the license or certificate expires, the department shall send to the licensee or certificate holder at his or her last-known address a renewal notice which states:

- (a) The date on which the current license or certificate expires;
  - (b) The date by which the renewal application must be received by the department for the renewal to be issued and mailed before the license or certificate expires; and
  - (c) The amount of the renewal fee.
- (3) Before the license or certificate expires, the licensee or certificate holder may renew it for an additional one-year period if the licensee or certificate holder:
- (a) Is otherwise entitled to be licensed or certificated;
  - (b) Submits a renewal application to the department in the form required by the department; and
  - (c) Pays the renewal fee prescribed by the department.

Source: Laws 1986, LB 1051, §6; Laws 1988, LB 1073, §6.

**71-6307. Licensee or business entity; records required; contents.** The licensee or a business entity, whether excepted from the requirements for licensure by section 71-6302 or whether operating under a waiver, shall keep a record of each asbestos project and shall make the record available to the department at any reasonable time. All such records shall be kept for at least thirty years. Each record shall include:

- (1) The name, address, and certificate number of the individual who supervised the asbestos project and of each

employee or agent who worked on the project;

(2) The location and description of the project and the amount of asbestos material that was removed;

(3) The starting and completion dates of each instance of asbestos encapsulation, demolition, dismantling, maintenance, or removal;

(4) A summary of the procedures that were used to comply with all applicable standards;

(5) The name and address of each asbestos disposal site where the waste containing asbestos was deposited; and

(6) Such other information as the department may deem necessary for the efficient administration and enforcement of the Asbestos Control Act and for the protection of the health, safety, and welfare of all classes of asbestos occupations and the general public.

Source: Laws 1986, LB 1051, §7; Laws 1988, LB 1073, §7.

**71-6308. Repealed.** Laws 1988, LB 1073, §20.

**71-6309. Waiver of requirements; when authorized.** (1) In the event of an emergency in which, in the opinion of the director, there is created a situation of present and severe danger which poses an immediate threat to the public health, safety, and welfare, the director may waive the requirement for licensure or certification upon application and payment of the fee prescribed by the department. Such emergency waiver shall be limited to the time required to take protective measures.

(2) The department may, on a case-by-case basis, approve an alternative to a specific worker protection requirement for an asbestos project if the business entity submits a written description of the alternative procedure and demonstrates to the department's satisfaction that the proposed alternative procedure provides equivalent protection to the health, safety, and welfare of all classes of asbestos occupations and the general public.

(3) If the business entity is not primarily engaged in asbestos projects, the department may waive the requirement for a license upon application and payment of the fee prescribed by the department if worker protection requirements are met or an alternative procedure is approved pursuant to subsection (2) of this section and the health, safety, and welfare of the general public is protected.

Source: Laws 1986, LB 1051, §9; Laws 1988, LB 1073, §8.

**71-6309.01. Repealed.** Laws 1995, LB 406, §96.

**71-6310. Individual worker; certificate required; qualifications; term; renewal; applications; fee; limited certificate; instructors; qualifications.** (1) An individual person shall not be eligible to work on an asbestos project unless the person holds a certificate issued by the department.

(2) The department shall issue the following classes of certificates: Worker; supervisor; inspector; management planner; project monitor; and project designer. To qualify for a certificate of a particular class, a person shall have (a) successfully completed a training course approved or administered by the department, (b) been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator, and (c) passed an examination approved or administered by the department with at least the minimum score prescribed by the department.

(3) A certificate or renewal certificate shall be valid for one year from the date of issuance. To qualify for a renewal certificate, the applicant shall meet the requirements of section 71-6310.02.

(4) An application for a certificate, a renewal certificate, or approval shall be submitted to the department on a form prescribed by the department, shall include the applicant's social security number, and shall be accompanied by the prescribed fee.

(5) As an alternative to the qualifications in subdivision (2) (a) of this section, a person shall have completed a fully accredited United States Environmental Protection Agency Asbestos Hazard Emergency Response Act of 1976 training program or the person shall be currently accredited by a United States Environmental Protection Agency fully accredited state asbestos model accreditation plan adopted pursuant to 40 C.F.R. 763. In addition to the alternative qualifications, the person shall successfully complete a four-hour course approved by the department on Nebraska law, rules, and regulations and shall pass an examination thereon which shall be approved and may be administered by the department.

(6) The department may issue a limited certificate to a project designer or management planner who does not intend to enter any management plan, project design, or asbestos project work site. An applicant for a limited certificate under this subsection shall not be required to comply with the requirements of subdivision (2) (b) of this section. A holder of a limited certificate shall not enter any management plan, project design, or asbestos project work site. The limitation shall be endorsed upon the certificate. Violation of the limitation shall be grounds for disciplinary action against the certificate pursuant to section 71-6314.

(7) The department shall approve instructors of training courses. To qualify for approval an individual shall have (a) graduated from high school or obtained a general educational development certificate or equivalent document as determined by the department, (b) successfully completed an approved four-hour course on Nebraska law, rules, and regulations, and (c) at least one year of actual work experience in the asbestos industry.

Source: Laws 1986, LB 1051, §10; Laws 1988, LB 352, §144; Laws 1988, LB 1073, §9; Laws 1995, LB 406, §75; Laws

**71-6310.01. Asbestos occupations; training courses; approval.** (1) The department shall approve training courses for each classification of asbestos occupation. Applicants for course approval shall meet the requirements for each course and shall submit an application on forms provided by the department together with the prescribed fee. Approved course providers shall use only approved instructors to teach each training course. The department shall conduct onsite inspections of the training courses offered by course providers.

(2) In order to be approved by the department, an initial inspector training course shall meet the following requirements: A three-day training course including lectures, demonstrations, a field trip, at least four hours of hands-on training, individual respirator-fit testing, and a written examination; background information on asbestos and potential health effects related to exposure to asbestos; functions, qualifications, and the role of inspectors; legal liabilities and defenses; understanding building systems; public, employee, and occupant relations; preinspection planning and review of previous inspection records and inspecting for friable and nonfriable asbestos-containing material and assessing the condition of asbestos-containing material; bulk sampling and documentation of asbestos; inspector respiratory protection and personal protective equipment; and record keeping and inspection report writing, regulatory review, and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(3) In order to be approved by the department, an initial management planner training course shall meet the following requirements: A three-day inspector training course as outlined in subsection (2) of this section and a two-day management planner training course including lectures, demonstrations, and a written examination; course overview; evaluation and interpretation of survey results, hazard assessment, and legal implications; evaluation and selection of control options; role of other professionals; developing an operations and maintenance plan; and regulatory review, record keeping for the management planner, assembling and submitting the management plan, financing abatement actions, and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(4) In order to be approved by the department, an initial project designer training course shall meet the following requirements: A three-day training course including lectures, demonstrations, a field trip, and a written examination; background information on asbestos and potential health effects related to asbestos exposure; overview of abatement construction projects; safety system design specifications, employee personal protective equipment, and additional safety hazards; fiber aerodynamics and control, designing abatement solutions, final clearance process, and budgeting and cost estimation; writing abatement specifications and preparing abatement drawings; contract preparation and administration and legal liabilities and defenses; replacement of asbestos with asbestos-free substitutes; role of other consultants; occupied buildings; and relevant federal, state, and local regulatory requirements and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(5) In order to be approved by the department, an initial project monitor training course shall meet the following requirements: A five-day asbestos training course including lectures, demonstrations, at least six hours of hands-on training, and a written examination; roles and responsibilities of the project monitor; characteristics of asbestos and asbestos-containing materials; federal and state asbestos regulation overview; understanding building construction and building systems; asbestos abatement contracts, specifications, and drawings; response actions and abatement practices; asbestos abatement equipment; personal protective equipment; air monitoring strategies; safety and health issues other than asbestos; conducting visual inspections; final clearance process; legal responsibilities and liabilities of project monitors; record keeping and report writing; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(6) In order to be approved by the department, an initial supervisor training course shall meet the following requirements: A five-day asbestos training course including lectures, demonstrations, at least fourteen hours of hands-on training, individual respirator-fit testing, and a written examination; the physical characteristics of asbestos and asbestos-containing materials and potential health effects related to asbestos exposure; employee personal protective equipment, state-of-the-art work practices, personal hygiene, additional safety hazards, medical monitoring, and air monitoring; relevant federal, state, and local regulatory requirements; respiratory protection programs, medical surveillance programs, and insurance and liability issues; record keeping for asbestos abatement projects and supervisory techniques for asbestos abatement activity; contract specifications; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(7) In order to be approved by the department, an initial worker training course shall meet the following requirements: A four-day training course including lectures, demonstrations, at least fourteen hours of hands-on training, individual respirator-fit testing, and a written examination; physical characteristics of asbestos, potential health effects related to asbestos exposure, employee personal protective equipment, state-of-the-art work practices, personal hygiene, additional

safety hazards, medical monitoring, and air monitoring; relevant federal, state, and local regulatory requirements, procedures, and standards; establishment of respiratory protection programs; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(8) In order to be approved by the department, a course on Nebraska law, rules, and regulations required by subsection (5) of section 71-6310 shall consist of at least four hours of training on Nebraska law, rules, and regulations relating to asbestos. The written examination shall be approved and may be administered by the department. The passing score shall be determined by the department.

Source: Laws 1988, LB 1073, §14; Laws 1995, LB 406, §76.

**71-6310.02. Asbestos occupations; certificate; renewal; continuing competency requirements.** Any person certified in any of the asbestos occupations prescribed in section 71-6310, as a condition for certificate renewal, shall complete continuing competency activities as required by the department pursuant to section 71-6303 and shall be examined and approved by a physician as prescribed for initial applicants in section 71-6310. The certificate holder shall submit evidence as required by the department of satisfaction of the requirements of this section.

Source: Laws 1988, LB 1073, § 13; Laws 2002, LB 1021, § 100. Operative date January 1, 2003.

**71-6310.03. Project designer or project monitor; duties.** If a project designer or a project monitor is selected by the structure's owner or operator for an asbestos project, the project designer and project monitor shall be responsible for the following:

(1) Project designers shall prepare plans and specifications for business entities conducting asbestos projects. The plans and specifications shall be consistent with the criteria, requirements, and best interests of the structure's owner or operator and the requirements of the Asbestos Control Act. The project designer shall represent the owner or operator and ensure that these objectives are achieved by the business entity conducting the project throughout the project;

(2) Prior to preparing plans and specifications for any renovation project, a project designer shall ensure that any equipment items and any structural items of a structure affected by the renovation were inspected and assessed by a certified inspector. Prior to preparing plans and specifications for any demolition, a project designer shall ensure that the entire structure was inspected and assessed by a certified inspector. No dismantling or salvage operation shall begin before the inspection and assessment is completed;

(3) If a project designer or project monitor is selected by the owner or operator of the structure on or in which the asbestos project is conducted, he or she shall be independent of the business entity selected to perform the asbestos project. A private or public business entity which uses its own trained and certified employees to perform asbestos projects may also use its own employees who are trained and certified as project designers or project monitors to design and monitor projects conducted on or in its own structures; and

(4) If a project designer or project monitor is selected by the structure's owner or operator for an asbestos project, the project designer or project monitor shall oversee the activities of a business entity conducting an asbestos project to ensure that the requirements of the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to the act are met. Prior to allowing an asbestos project site to be returned to normal occupancy or function, a project designer or project monitor shall ensure that all waste, debris, and residue have been removed from the site in compliance with the act and the rules and regulations adopted and promulgated pursuant to the act.

Source: Laws 1995, LB 406, §78.

**71-6311. Governmental body; contract with nonlicensee prohibited.** No state agency, county, city, village, school district, or other political subdivision shall accept a bid in connection with any asbestos project which is two hundred sixty or more linear feet or one hundred sixty or more square feet and linear feet in any combination from a business entity which does not hold a license from the department at the time the bid is submitted.

Source: Laws 1986, LB 1051, §11; Laws 1995, LB 406, §77.

**71-6312. Violations; penalties.** (1) A person or business entity which engages in an asbestos project without a valid license, except as otherwise provided in the Asbestos Control Act, shall be assessed a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars for the first offense and not less than twenty-five thousand dollars nor more than one hundred thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(2) A person who engages in an asbestos occupation without a valid certificate, except as otherwise provided in the act, shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars for the first offense and not less than one thousand dollars nor more than fifteen thousand dollars for the second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(3) Any business entity which knowingly engages in an asbestos project but which uses employees who do not hold a certificate shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars for the



first offense and not less than five thousand dollars nor more than ten thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(4) The civil penalties prescribed in subsections (1), (2), and (3) of this section shall be assessed in a civil action brought for such purpose by the Attorney General in the district court of the county in which the violation occurred.

(5) A person or business entity which has been assessed a civil penalty under this section and subsequently engages in an asbestos project or an asbestos occupation without a valid certificate or license or using employees who do not hold a certificate, except as otherwise provided in the Asbestos Control Act:

(a) For a first offense, shall be guilty of a Class I misdemeanor; and

(b) For a second or subsequent offense, shall be guilty of a Class IV felony.

Source: Laws 1986, LB 1051, §12; Laws 1988, LB 1073, §10; Laws 1990, LB 923, §3.

**71-6313. Violations; action to enjoin.** The Attorney General may institute an action in the name of the state for an injunction or other process against any business entity or person to restrain or prevent any violation of the Asbestos Control Act or of any rules and regulations adopted and promulgated pursuant to such act.

Source: Laws 1986, LB 1051, §13; Laws 1988, LB 1073, §11.

**71-6314. Violations; citation; disciplinary actions; procedures; civil penalty; lien; enforcement.** (1) When the department determines that a licensee has violated the Asbestos Control Act or any rule and regulation adopted and promulgated pursuant to the act, the department may, rather than initially instituting disciplinary proceedings pursuant to subsection (2) of this section, within seven working days after a finding of a violation is made, issue a citation to the licensee. The citation shall be served upon the licensee personally or by certified mail. Each citation shall specifically describe the nature of the violation and identify the statute, rule, or regulation violated. When a citation is served upon the licensee, the licensee shall have seven working days to remedy the violation. If such violation has not been remedied at the end of such time, the department may take such other action as is deemed appropriate pursuant to the Asbestos Control Act and the Administrative Procedure Act.

(2) Independent of the provisions of subsection (1) of this section, a license, certificate, or approval issued pursuant to the Asbestos Control Act may be denied, refused renewal, suspended, or revoked when the applicant, licensee, or certificate holder violates any of the provisions of the act, fraudulently or deceptively obtains or attempts to obtain a license, certificate, or approval, fails at any time to meet the qualifications for a license, certificate, or approval, fails to comply with rules and regulations adopted and promulgated pursuant to the act, fails to meet any applicable state standard for asbestos projects, or employs or permits an uncertified person to work in an asbestos occupation.

(3) In addition to the disciplinary actions provided for in subsection (2) of this section, the department may assess a civil penalty of not less than one thousand dollars nor more than twenty-five thousand dollars for each offense committed by any business entity licensed under the act or not less than one hundred dollars nor more than five thousand dollars for each offense committed by a person certified under the act for violation of the act or any rule or regulation adopted and promulgated pursuant thereto. Each day a violation continues shall constitute a separate offense.

(4) Whenever the department determines to deny, refuse to renew, suspend, or revoke a license, certificate, or approval or assess a civil penalty, it shall send to the applicant, licensee, or certificate holder a notice setting forth the particular reasons for the determination. The denial, suspension, refusal to renew, revocation, or assessment of a civil penalty shall become final thirty days after the mailing of the notice unless the applicant, certificate holder, or licensee gives written notice to the department of a desire for a hearing. If a hearing is requested, the applicant, certificate holder, or licensee shall be given a hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination shall be affirmed, modified, or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based shall be sent by certified mail to the applicant, certificate holder, or licensee. The decision shall become a final decision of the department and may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(5) Hearings held pursuant to this section shall be held in accordance with the Administrative Procedure Act and the rules and regulations adopted and promulgated by the department under such act.

(6) Any civil penalty assessed and unpaid under the Asbestos Control Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days of receipt, transmit any collected civil penalty to the State Treasurer for deposit in the permanent school fund.

Source: Laws 1986, LB 1051, §14; Laws 1988, LB 352, §145; Laws 1988, LB 1073, §12; Laws 1995, LB 406, §79.

**71-6315. Repealed.** Laws 1995, LB 406, §96.

**71-6316. Act; districts exempt.** The Asbestos Control Act shall not apply to a district as defined in section 70-601 or a district subject to sections 14-2101 to 14-2157.

Source: Laws 1988, LB 1073, §17; Laws 1992, LB 746, §74.

**71-6317. Act, how cited.** Sections 71-6301 to 71-6317 shall be known and may be cited as the Asbestos Control Act.  
Source: Laws 1988, LB 1073, §18; Laws 1995, LB 406, §80.